

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

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LIBERTY MUTUAL FIRE INSURANCE  
COMPANY AND LIBERTY INSURANCE  
CORPORATION,

Civil Action No. 02-2785

Plaintiffs,

v.

SPRING CITY ELECTRICAL  
MANUFACTURING COMPANY AND SCF  
INVESTMENTS, INC. AND MILLER AND  
BRINK OF CALIFORNIA, INC. AND  
WESTERN LIGHTING CO.,

**AFFIDAVIT OF JONATHAN M.  
KULLER IN SUPPORT OF MOTION  
SEEKING LEAVE TO FILE AMENDED  
COMPLAINT**

Defendants.

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By Order of this Honorable Court entered May 8, 2002 I was admitted as counsel for Plaintiff *pro hac vice*.

1. Plaintiffs initially filed suit in this action on or about May 8, 2002 seeking to collect retrospective premiums arising from a workers compensation and employers liability insurance policy which covered defendants from September 12, 1996 to September 12, 1997, together with audited premium with respect to policies which ran from September 12, 2000 to September 12, 2001.

2. After the complaint was filed there were two significant developments which call for the filing of an amended complaint.

3. Defendants paid \$81,620.00 which essentially satisfied all but plaintiffs claims for retrospective premiums with respect to the policy which ran from September 12, 1996 to September 12, 1997.

4. Subsequent to the filing of a complaint a debit issue with respect to a policy which had a "0" balance at the time the complaint had been filed. This caused plaintiffs to further review their records and they ascertained that in addition to the policies named in the complaints originally filed, defendants had four other policies with plaintiff, that because of retrospective premium or dividend re-determination provisions, could result in further premium calculations and, accordingly, further debits due and owing.

5. Accordingly, I drafted a proposed stipulation amending plaintiff's complaint and by letter dated August 23, 2002 forwarded it to defense counsel.

6. Defense counsel and I had spoke, exchanged numerous phone calls and "e-mail" messages concerning the case, in particular, my proposed amendments.

7. Apparently because of the demand of other matters, defense counsel has been unable to respond to my suggested stipulation.

8. Because of a Court Ordered arbitration date (October 10) which is drawing closer I felt it necessary to file the instant motion.

9. Attached hereto and made part hereof designated Exhibit "A" is a true copy, less exhibits, of the Amended Complaint which plaintiff proposes to file.

10. I make this affidavit knowing that the Court will rely upon same.

Dated: September 18, 2002

Sworn and subscribed to before me  
On this \_\_\_\_\_ day of September, 2002

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Jonathan M. Kuller, Esq. (4930)  
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Notary Public